

DOCKET NO.: 217047US0PCT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

GIOVANNI COLOMBO, ET AL. :

EXAMINER: WEDDINGTON, K.E.

SERIAL NO: 09/926,738 :

FILED: DECEMBER 11, 2001 :

GROUP ART UNIT: 1614

FOR: USE OF THIAMPHENICOL AND
DERIVATIVES THEREOF FOR THE
PREPARATION OF
PHARMACEUTICAL
COMPOSITIONS USEFUL IN THE
TREATMENT OF CHLAMYDIA
PNEUMONIAE INFECTIONS

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ELECTION AND RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Restriction Requirement mailed December 10, 2002, the Applicants elected with traverse **Group I**, claims 7-15, directed to compositions comprising thiamphenicol.

The traverse is on the basis that the Office has not established that Groups I, II and III are independent and distinct from one another. First, according to the restriction requirement itself, each group is identically classified in Class 514, subclass 561. Second, while the requirement states that each group could support its own patent, no reasons or examples are provided to support the Office's conclusion of why it believes these groups to be independent and distinct, see MPEP 803.

Moreover, the Applicants respectfully submit that no undue burden would be imposed on the Examiner in conducting an Examination of all three groups together, because

similar subject matter is encompassed by each group and each group is identically classified. For instance, thiamphenicol is common to each of these groups.

In the event that the restriction requirement is maintained, the Applicants respectfully request that the claims of the nonelected groups which depend from or include all the limitations of those of Group I, be rejoined upon an indication of allowability for the elected claims, see MPEP 821.04.

Accordingly, the Applicants respectfully request that the Restriction Requirement be withdrawn and all the claims be examined together.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618



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A handwritten signature in black ink, appearing to read "Thomas Cunningham". The script is fluid and cursive.

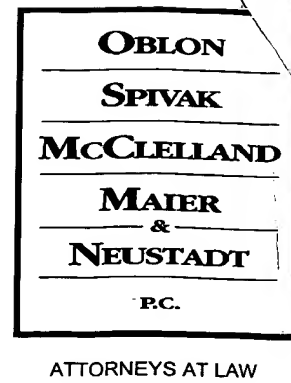
Thomas M. Cunningham, Ph.D.
Registration No. 45,394



Docket No.: 217047US0PCT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

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RE: Application Serial No.: 09/926,738

Applicants: Giovanni COLOMBO, et al.

Filing Date: December 11, 2001

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THEREOF FOR THE PREPARATION OF
PHARMACEUTICAL COMPOSITIONS USEFUL IN
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Group Art Unit: 1614

Examiner: K. E. Weddington

SIR:

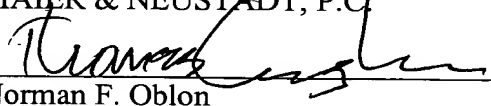
Attached hereto for filing are the following papers:

Election and Response to Restriction Requirement

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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